

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1-17 and 23-25 were pending. Claims 23-25 are cancelled. Claims 1, 4 and 6 are amended to incorporate the respective limitations of claims 23, 24 and 25, subject matter that the Examiner indicates is allowable. After amending the claims as set forth above, claims 1-17 are now pending in this application.

Applicant appreciates the Examiner's determination that claims 8-17 and 23-25 are free of the prior art "because no prior art was found associating the thyroid hormone receptor beta 1 to methods for determining the likelihood or re-occurrence [*sic*, of re-occurrence] of or post-surgical treatment of and/or risk of breast cancer in a patient." While Applicant agrees with the Examiner that claims 23-25 are free of the prior art, claims 23-25 do not relate to thyroid hormone receptor beta 1. Rather claims 23-25 relate to analyzing cell samples for loss of heterozygosity (LOH) at chromosomal locus 3p24.3, where the samples comprise a standardized volume to cell ratio and the cells in the samples are counted prior to microdissection and solubilization, a condition not taught in the cited art.

Claim Rejections – 35 USC § 102/103

The Examiner maintains her rejection of claims 1-7 under 35 U.S.C. § 102(b) as anticipated by, or in the alternative under 35 U.S.C. § 103(a) as obvious over Deng et al. (*Science* 272:2057-2059 (1996)). In view of the Examiner's determination that claims 23-25 (which depend from claims 1, 4 and 6, respectively) are allowable, independent claims 1, 4 and 6 are amended to include the limitations of claims 23-25. Claims 23-25 are canceled. Applicant submits that claims 1-7, as amended, are patentable over Deng et al.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Respectfully submitted,

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